

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EARL NASH,

Petitioner,

-against-

TRANSFER ORDER

10-CV-1228 (CBA)

JOSEPH BELLNIER,
Superintendent of Marcy Correctional Facility,

Respondent.

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EARL NASH,

Petitioner,

-against-

10-CV-1313 (CBA)

ANDREA W. EVANS, Parole Division; and
JOSEPH BELLNIER, Superintendent of
Marcy Correctional Facility,

Respondents.

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AMON, United States District Judge.

Pro se petitioner Earl Nash is currently incarcerated at Marcy Correctional Facility in Oneida County, New York pursuant to a judgment of conviction entered in New York County. Petitioner filed the above-captioned petitions in this Court, which are hereby transferred to the United States District Court for the Northern District of New York.

In the petition docketed as 10-CV-1228, petitioner appears to challenge allegedly false misbehavior reports. It is not clear whether he means to challenge the conditions of his confinement, via a petition for habeas corpus, or whether he is alleging a violation of his civil rights that would be cognizable pursuant to 42 U.S.C. § 1983. It is also unclear where the challenged events took place; he mentions incidents at Bare Hill and Coxsackie Correctional

Facilities. In the petition docketed as 10-CV-1313, petitioner challenges a parole board decision at Greene Correctional Facility.

All of the challenged activity took place outside of this judicial district, and petitioner's custodian is located outside of this district. Accordingly, this Court does not have jurisdiction over these claims. Pursuant to the venue provision governing federal question jurisdiction, a civil action must be filed in the judicial district where a substantial part of the events or omissions giving rise to the claim occurred or where any defendant resides. See 28 U.S.C. § 1391(b). Moreover, a petition for a writ of habeas corpus must be filed in the district having jurisdiction over the custodian of the incarcerated person. See 28 U.S.C. § 2241(a); Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 495 (1973) ("Read literally, the language of § 2241(a) requires nothing more than that the court issuing the writ have jurisdiction over the custodian.").

The Greene and Coxsackie Correctional Facilities are located in Greene County; Bare Hill Correctional Facility is located in Franklin County, and Marcy Correctional Facility is located in Oneida County. All of these facilities are located within the Northern District of New York. See 28 U.S.C. § 112(a). Accordingly, these two cases are hereby transferred to the United States District Court for the Northern District of New York. See 28 U.S.C. § 1406(a) (district court may transfer case filed in the wrong district to any district in which it could have been brought).

A decision on petitioner's applications to proceed *in forma pauperis* and a determination of the exact nature of these suits are reserved for the transferee court. This Court offers no opinion on the merits of petitioner's claims. That provision of Rule 83.1 of the Local Rules of the Eastern District of New York which requires a five-day delay is waived. Upon the transfer of these cases, the Clerk of Court is to mark them closed.

SO ORDERED.

Dated: Brooklyn, New York
March 26, 2010

/Signed by Judge Amon/
Carol Bagley Amon
United States District Judge